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Integration and coordination of efforts by the United Nations Office on Drugs and Crime and Member States in the field of crime prevention and criminal justice

Statement submitted by Transparency International**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* E/CN.15/2015/1.
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To the Commission:

The injustice and inequity caused by corruption is well-known and multifaceted. Countering corruption and money laundering is essential to achieve sustainable development and stop the spread of organized crime. Enhancing accountability and transparency in the police and the judiciary is a key step in countering corruption and organized crime, given that these institutions may themselves be vulnerable to those threats. Ensuring well-resourced and functionally independent anti-corruption bodies is also essential in order to properly address and mitigated corruption.

Transparency International welcomes the recent adoption of the Doha Declaration at the 13th United Nations Congress on Crime Prevention and Criminal Justice, which reiterates State obligations under the United Nations Convention against Corruption (UNCAC) to prevent, detect, and counter corruption, enhance transparency, and promote the integrity and accountability of our criminal justice systems. We also applaud the Declaration's references to urgently-needed measures to effectively address illicit financial flows that conceal the proceeds of corruption and crime, siphon funds from their rightful recipients, and threaten the entire United Nations post-2015 agenda.

TI further welcomes the United Nations Secretary-General's 9 March 2015 report to the Commission and commends UNODC's ongoing support to anti-corruption efforts worldwide. In particular, UNODC efforts aimed at providing training and assistance to States Parties and civil society organisations in relation to the UNCAC implementation review process, as well as the work carried out by the Anti-Corruption Advisor Program, especially its efforts aimed at strengthening national institutional and policy frameworks and the involvement of all areas of society in anti-corruption efforts.

Taking into account the foregoing, we have the following recommendations to the 24th Session of the Crime Commission:

Ensure transparent and accountable law enforcement and justice institutions

In countries with high levels of corruption and organized crime, the focus and orientation of security policies has thus far led to insufficient institutional changes fostering transparency and accountability. Many countries lack basic information to assess the incidence, extent and trends of crime, violence, and human rights abuses resulting from hard-line criminal enforcement policies. Little attention has been paid to the implementation of internal and external oversight mechanisms to monitor the armed forces, police and justice procurement authorities, which include state attorneys and public defenders. While police reform has often been accompanied by a prevention and community focus, community participation in policing spaces is scarce, and monitoring practically non-existent.

The net result of this is often law enforcement sectors (i.e. both police and judicial) that are overwhelmed, under-resourced, and often partially co-opted by corrupt and criminal actors. Criminal actors, especially organized crime, are able to leverage institutional weaknesses in the sector, especially lack of transparency and accountability, to corrupt or take advantage of already corrupt public officials in order that their illegal activities advance unhindered. This phenomenon culminates

in extremely high rates of impunity for homicide and corruption in affected countries, which itself further exacerbates violence and destabilization.[1]

We therefore urge governments to advance reforms that deliver effective safety and policing strategies and access to justice to all people within a state, free of abuse. In order to reach this goal, we support:

1. **Increased adoption and exercise of effective accountability standards and mechanisms** by government and targeted national and local security and justice sectors and institutions (e.g. civil police, prosecutors, safety ministries). Such standards and mechanisms should ensure robust internal and external oversight of state security and justice procurement authorities. This includes procurement practices, human resource policies, fiscal transparency, whistle-blower protection, policy formulation and implementation, as well as performance evaluation.

2. **Improved conditions for victims and witnesses** of corruption and abuse of power, including violence, in the security and justice sectors to come forward and access justice. Safe and effective conditions for reporting such abuses are needed to ensure the accountability of such institutions to the public. Independent and well-resourced oversight of whistle-blower mechanisms is essential to their proper functioning. Whistle-blower legislation should introduce the highest international standards of whistle-blower protection, as embodied in the *International Principles for Whistle-blower Legislation prepared by Transparency International*.[2]

3. **Increased participation by civil society**, and, at local level, affected communities in law enforcement strategy formulation and oversight. As underscored in the seminal 2013 UNDP Regional Human Development report, "In order for the demands of vulnerable groups, such as victims of violence and crime, to be included in government actions and strategies, effective spaces for public participation need to be opened up." Only by working with those closest to and most affected by the problems of corruption and abuse of power in security and justice institutions, and establishing "confidence networks" between communities and vetted, reform-minded actors within the security and justice networks, will it be possible develop legitimate and sustainable strategies for citizen security.

4. **Improved generation and access to data** relevant to effective oversight of security and justice institutions by civil society. We support UNODC efforts to promote transparent, verifiable, and comparable crime and victimization statistics across countries and seek more open, proactive disclosure regarding institutional budgets, procurement, asset declarations of institution officials, and human resource policies and decision making. This is essential to ensure

[1] According to the United Nations the sentence rate in Latin America is 24 per 100 victims: UNODC: Global Study on Homicide 2013: www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf. In Mexico, for example, 80 per cent of homicides rates go unpunished. And in Honduras 95 to 98 per cent of crimes committed go without punishment throughout the country. See: Wilson Center, "Best Practices to Reduce Homicide Rates", p. 8.

[2] www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation.

that public policy objectives are being implemented with full fidelity, free of corruption and abuse of power by security and justice officials.

Ensure that anti-corruption agencies are independent and well-resourced

Anti-corruption agencies (ACAs) can offer an effective institutional approach to tackling corruption, but only if they are provided with the means to carry out their mission. Articles 6 and 36 of the UNCAC call for States parties to ensure the existence of independent bodies established to prevent corruption and promote anti-corruption policies and principles as well as to combat corruption. The last two decades have witnessed a significant growth in the number of Anti-Corruption Agencies (ACAs) around the world, so that they have now been established in nearly 150 countries.[3] This growth means those countries have identified them as important partners in the fight against corruption. ACAs often play (or should play) a central role in identifying, investigating, and sanctioning corrupt practices, and in ensuring that there is no impunity for corrupt practices.

However, across the world a wide gap exists between the commitments displayed in establishing ACAs and the actual realisation of their mandate.

We therefore urge governments to:

Ensure that Anti-Corruption Agencies (ACAs) are functionally independent and well-resourced. Only then do ACAs have the potential to improve the prevention, detection and sanctioning of corruption. Parameters for strong anti-corruption agencies are laid out in the *Jakarta Statement on Principles for Anti-Corruption Agencies*,[4] which provides credible guidance for States and merits endorsement by the Crime Commission and by the UNCAC Conference of States Parties. In order to assist progress towards the endorsement of these principles, Transparency International will launch an initiative this year to assess the performance of anti-corruption agencies in the Asia Pacific region.

Increase efforts to stem money-laundering

Company secrecy laws, complex ownership structures, and complicity and complacency among members of both the private and public sectors, create a protective veil for those that are benefitting from corrupt practices and obstructing law enforcement investigations. Reforms and increased oversight are needed in key areas that are vulnerable to illicit financial flows and corruption-related money-laundering, such as the banking sector, real estate and luxury good markets.

We therefore urge governments to:

Establish public registers to end company ownership secrecy:

Company secrecy laws hamper law enforcement investigations into corrupt individuals. Similarly, overly complex and multi-layered company ownership structures can mask the true identity of those who are benefitting from the proceeds

[3] Principles for Anti-Corruption Agencies: A Game Changer; Jaegere, Samuel De, Jindal Journal of Public Policy, Vol. 1, Issue 1, Aug. 2012, www.pogar.org/publications/ac/2012/publications/PrinciplesSamuelDeJaegere.pdf.

[4] www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

of corruption and other crimes. Governments should therefore, establish public corporate registers that include beneficial ownership information. Each government should take concrete steps to end corporate secrecy by enforcing existing requirements to collect beneficial ownership information regarding the true identity of the human beings who own and profit from companies, while increasing the transparency of trusts to avoid their misuse for money laundering purposes. Governments should also facilitate improvement in the due diligence conducted by the "facilitators" of illicit financial flows, including casinos, real estate agents, lawyers, accountants and company formation agents, through stricter laws requiring the licensing of service providers who form trusts and companies.

1. **Increase bank scrutiny of Politically Exposed Persons**

Governments should ensure the independent, efficient and rigorous supervision of banks and financial professionals to ensure that they conduct enhanced due diligence with regard to Politically Exposed Persons (PEPs).

2. **Regulate luxury investments and enforce existing regulations:**

Governments should adopt and enforce laws requiring real estate and associated financial brokers, as well as other high-end luxury goods dealers, to refuse payment in cash above a certain large amount; to know who they are doing business with; and to report anything suspicious. Non-compliance should be subject to dissuasive sanctions.

Increase civil society participation in anti-corruption efforts

Putting an end to corruption requires the involvement of all areas of society. UNCAC Article 13 recognizes a role for civil society organisations in anti-corruption efforts and calls upon States parties to actively promote their involvement, including through recognition of the rights to freedom of expression, association and assembly, as well as through access to information and anonymous reporting channels. The United Nations, through its Institutional Integrity Initiative aims to apply UNCAC to its own workings.

We therefore urge governments to:

1. **Create safe and effective conditions for the involvement of civil society**

Civil society anti-corruption organisations cannot carry out their role effectively when they are subject to constraints that effectively negate the rights to freedom of expression, association and assembly. Governments should provide effective protections to beyond mere non-interference and extending to actively consulting and engaging civil society across all areas of corruption policy development, implementation, and monitoring.

2. **Re-commit to participation of representatives of civil society organizations in UNCAC and UNTOC subsidiary bodies**

The report of the Special Rapporteur on Freedom of Association and Assembly entitled Multilateral Institutions and Their Effect on Assembly and Association Rights (A/69/365) stresses that the right to freedom of association and assembly also applies at the multilateral level and that multilateral organizations, like states,

have responsibilities to maintain an enabling environment for civil society. The report identified good and bad examples among the multilaterals. Further, the United Nations Institutional Integrity Initiative aims to apply UNCAC, including Article 13, to the United Nations itself. In order to fulfil this obligation and this aim, CSOs must be permitted to participate in subsidiary bodies of UNCAC and the United Nations Convention on Transnational Organized Crime.